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In re Application of
LINDER

U.S. Application No.: 10/585,127

PCT No.: PCT/SE04/01983

Int. Filing Date: 22 December 2004

Priority Date: 31 December 2003

Attorney Docket No.: 43315-232515

For: A METHOD AND A DEVICE FOR ELECTRO-
MAGNETIC MEASUREMENT OF THICKNESS
AND ELECTRICAL CONDUCTIVITY

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 31 January 2008 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 22 December 2004, applicant filed international application PCT/SE04/01983 which claimed priority of an earlier application filed 31 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 30 June 2006.

On 30 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 28 March 2007, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 04 January 2008, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 28 March 2007 within the time period set therein and that above-identified application was abandoned as to the United States.

On 31 January 2008, applicant filed the petition considered herein.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971). Applicant has satisfied items (1) and (3) above.

As to item (2), applicant has not included a statement from counsel that a search of the file jacket indicates the Office action was not received.

Regarding item(4), applicant has provided a copy of the docket record for the above-captioned application which purportedly shows where the paper would have been entered had it been received. However, the printout of the docket report for this specific application is not sufficient to establish that the Notification of Missing Requirements was not received and mis-docketed to another application. Accordingly, applicant is required to provide docket records for the entire firm for which a response was due on an Office action mailed 28 March 2007.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

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Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', written in a cursive style.

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